

REMARKS

In response to the Office Action dated December 9, 2004, Applicants respectfully request reconsideration based on the following remarks and amendments. Claims 1, 9, 17, 29, 33, or 36 have been amended and claims 9-16 and 39 have been canceled; leaving claims 1-5, 7-8, and 17-38 for currently pending. Applicants respectfully submit that the claims as presented are in condition for allowance.

The drawings were objected to. Submitted herewith is a replacement set of drawings including revisions to overcome the objections.

Claims 1-5, 7-8, 17-25, and 27-38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S Patent Application 2002/0063656 to Gutowski (hereinafter referred to as "Gutowski") in view of U.S. Patent 5,481,588 to Rickli et al. (hereinafter referred to as "Rickli"). For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art; that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art must have had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970). This rejection is respectfully traversed for the following reasons.

The cited documents do not teach or suggest all of the claim elements. Specifically, neither Gutowski or Rickli teach or a system for determining mobile communications system carrier propagation characteristics, wherein the mobile communications system does not decrease system capacity during the operation of said system for determining mobile communications system carrier propagation characteristics.

Gutowski discloses a measuring system that includes a scanning receiver, a GPA and a laptop. Gutowski teaches a system for determining mobile communications system carrier propagation characteristics that requires individual antennas on each sector to be

keyed-up and constantly transmit on a particular frequency referred to as the keyed-up signal. The requirement that the antennas constantly transmit on a particular frequency reduces the number of available frequencies for subscriber communications and thereby reduces the capacity of the mobile communications system. Therefore, Gutowski does not teach or disclose all of the elements of independent claims 1, 17, 29, 33, or 36.

Furthermore, Rickli does not cure the deficiencies of Gutowski. Rickli discloses a test arrangement for radio telephone systems that includes using mobile test units to place calls using the mobile communications system and record data about the call. The system disclosed in Rickli reduces the available capacity of the mobile communications system.

Claims 1, 17, 29, 33, or 36 are believed to be allowable since Gutowski and Rickli combined do not teach or disclose all of the elements the claims; additionally dependant claims 2-4, 7-8, 17-25, and 27-38 are believed to be allowable, at least due to their dependency on claims 1, 17, 29, 33, or 36.

Claim 26 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Gutowski in view of Rickli and further in view of U.S. Patent No. 6,201,803 to Munday et. Al (hereinafter referred to as "Munday"). Munday, however, does not cure the deficiencies of Gutowski and Rickli discussed above. Claim 26 includes features similar to those discussed above with reference to claim 17 and is patentable over Gutowski in view of Arpee and further in view of Munday for at least the reasons advanced with respect to claim 17.

In view of the foregoing amendment and remarks, Applicants submit that the above-identified application is now in condition for allowance. Early notification to this effect is respectfully requested.

If there are any charges with respect to this response or otherwise, please charge them to Deposit Account 06-1130 maintained by Applicants' attorneys.

Respectfully submitted,

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